

**ASSEMBLY BILL**

**No. 513**

**Introduced by Assembly Member Hertzberg  
(Principal coauthor: Assembly Member Thomson)**

February 24, 1997

An act to amend Section 11370.4 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 513, as introduced, Hertzberg. Controlled substances.

Existing law provides that persons convicted of the unlawful possession for sale, transportation, importation, sale, or furnishing of, or certain related offenses involving methamphetamine, amphetamine, or phencyclidine (PCP) shall receive additional terms of imprisonment depending on the weight or volume of the substances.

This bill would add the manufacture of methamphetamine, amphetamine, or PCP to the offenses specified for purposes of this provision. By expanding the scope of an existing sentence enhancement, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11370.4 of the Health and Safety Code is amended to read:

11370.4. (a) Any person convicted of a violation of, or of a conspiracy to violate, Section 11351, 11351.5, or 11352 with respect to a substance containing heroin, cocaine base as specified in paragraph (1) of subdivision (f) of Section 11054, or cocaine as specified in paragraph (6) of subdivision (b) of Section 11055 shall receive an additional term as follows:

(1) Where the substance exceeds one kilogram by weight, the person shall receive an additional term of three years.

(2) Where the substance exceeds four kilograms by weight, the person shall receive an additional term of five years.

(3) Where the substance exceeds 10 kilograms by weight, the person shall receive an additional term of 10 years.

(4) Where the substance exceeds 20 kilograms by weight, the person shall receive an additional term of 15 years.

(5) Where the substance exceeds 40 kilograms by weight, the person shall receive an additional term of 20 years.

(6) Where the substance exceeds 80 kilograms by weight, the person shall receive an additional term of 25 years.

The conspiracy enhancements provided for in this subdivision shall not be imposed unless the trier of fact finds that the defendant conspirator was substantially involved in the planning, direction, execution, or financing of the underlying offense.

(b) Any person convicted of a violation of, or of conspiracy to violate, Section 11378, 11378.5, 11379, ~~or~~ 11379.5, *or* 11379.6 with respect to a substance containing methamphetamine, amphetamine, phencyclidine (PCP) and its analogs shall receive an additional term as follows:

1 (1) Where the substance exceeds one kilogram by  
2 weight, or 30 liters by liquid volume, the person shall  
3 receive an additional term of three years.

4 (2) Where the substance exceeds four kilograms by  
5 weight, or 100 liters by liquid volume, the person shall  
6 receive an additional term of five years.

7 (3) Where the substance exceeds 10 kilograms by  
8 weight, or 200 liters by liquid volume, the person shall  
9 receive an additional term of 10 years.

10 (4) Where the substance exceeds 20 kilograms by  
11 weight, or 400 liters by volume, the person shall receive  
12 an additional term of 15 years.

13 In computing the quantities involved in this  
14 subdivision, plant or vegetable material seized shall not  
15 be included.

16 The conspiracy enhancements provided for in this  
17 subdivision shall not be imposed unless the trier of fact  
18 finds that the defendant conspirator was substantially  
19 involved in the planning, direction, execution, or  
20 financing of the underlying offense.

21 (c) The additional terms provided in this section shall  
22 not be imposed unless the allegation that the weight of  
23 the substance containing heroin, cocaine base as specified  
24 in paragraph (1) of subdivision (f) of Section 11054,  
25 cocaine as specified in paragraph (6) of subdivision (b)  
26 of Section 11055, methamphetamine, amphetamine, or  
27 phencyclidine (PCP) and its analogs exceeds the  
28 amounts provided in this section is charged in the  
29 accusatory pleading and admitted or found to be true by  
30 the trier of fact.

31 (d) The additional terms provided in this section shall  
32 be in addition to any other punishment provided by law.

33 (e) Notwithstanding any other provision of law, the  
34 court may strike the additional punishment for the  
35 enhancements provided in this section if it determines  
36 that there are circumstances in mitigation of the  
37 additional punishment and states on the record its reasons  
38 for striking the additional punishment.

39 SEC. 2. No reimbursement is required by this act  
40 pursuant to Section 6 of Article XIII B of the California

1 Constitution because the only costs that may be incurred  
2 by a local agency or school district will be incurred  
3 because this act creates a new crime or infraction,  
4 eliminates a crime or infraction, or changes the penalty  
5 for a crime or infraction, within the meaning of Section  
6 17556 of the Government Code, or changes the definition  
7 of a crime within the meaning of Section 6 of Article  
8 XIII B of the California Constitution.

9 Notwithstanding Section 17580 of the Government  
10 Code, unless otherwise specified, the provisions of this act  
11 shall become operative on the same date that the act  
12 takes effect pursuant to the California Constitution.

